

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

CIVIL ACTION NO:

DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR
AMERIQUEST MORTGAGE SECURITIES
INC., ASSET-BACKED PASS-THROUGH
CERTIFICATES, SERIES 2005-R10

PLAINTIFF

v.

BONNIE L. THERRIEN

DEFENDANT

COMPLAINT FOR FORECLOSURE

NOW COMES the Plaintiff, Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R10, by and through its attorneys, Bendett & McHugh, P.C., and complains against the Defendant pursuant to 14 M.R.S. § 6321 et seq., saying further as follows:

JURISDICTION AND VENUE

1. This Court has diversity jurisdiction pursuant 28 U.S.C. § 1332 because the Plaintiff and Defendant are citizens of different states and the matter in controversy exceeds the sum or value of \$75,000.00. Any Court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought under 28 U.S.C. § 2201.

2. Venue is properly exercised pursuant to 28 U.S.C. §1391(b)(2) insofar as all or a substantial portion of the events that give rise to Plaintiff's claims transpired in Maine and the property is located in Maine.

PARTIES

3. Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R10, ("Plaintiff") is a corporate trustee incorporated in the State of California, having a principal place of business at 300 South Grand Avenue, Los Angeles, California.
4. Defendant, Bonnie L. Therrien, is a resident of the Town of Shapleigh, County of York and State of Maine.

FACTS

5. Defendant Bonnie L. Therrien is the owner of certain real property located at 128 Cross Road, Shapleigh, Maine (the "Premises") by virtue of a deed from Bruce A. Chretien and Darleen Chretien f/k/a Darleen Douglas to Defendant and the late Michael L. Therrien, dated June 8, 2001, and recorded in the York County Registry of Deeds on June 12, 2001 in Book 10709 at Page 225 and being more particularly described by the attached legal description. *See* Exhibit A. Upon information and belief, Michael L. Therrien died on or about January 31, 2011, leaving Defendant as the sole surviving owner of the property.
6. On November 18, 2005, Defendant, Bonnie L. Therrien, together with the late Michael L. Therrien, executed and delivered to Ameriquest Mortgage Company a certain promissory note in the original principal amount of \$241,600.00 (the "Note"). *See* Exhibit B.

7. Plaintiff is entitled to enforce the Note as the Note is endorsed in blank.
8. Plaintiff certifies that the owner of the Note is Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R10.
9. To secure said Note, in the amount of \$241,600.00, Defendant, Bonnie L. Therrien, together with the late Michael L. Therrien, executed and delivered a Mortgage in favor of Ameriquest Mortgage Company, dated November 18, 2005 and recorded in the York County Registry of Deeds in Book 14690 at Page 705 securing the property located at 128 Cross Road, Shapleigh, ME, 04076 (the "Mortgage"). *See Exhibit C.*
10. Said Mortgage was assigned from Ameriquest Mortgage Company to the Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc. Asset-Backed Pass-Through Certificates, Series 2005-R10, under the Pooling and Servicing Agreement dated November 1, 2005 by an Assignment of Mortgage, dated January 1, 2009 and recorded on February 18, 2009 in Book 15564 at Page 966 of the York County Registry of Deeds. *See Exhibit D1.*
11. Said Mortgage was thereafter assigned from Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc. Asset-Backed Pass-Through Certificates, Series 2005-R10, under the Pooling and Servicing Agreement dated November 1, 2005 to American Home Mortgage Servicing, Inc., as servicer for CitiResidential Lending, Inc. as Attorney-in-Fact for Ameriquest Mortgage Company by an Assignment of Mortgage, dated August 27, 2009 and recorded on September 2, 2009 in Book 15716 at Page 790 of the York County Registry of Deeds. *See Exhibit D2.*

12. Said Mortgage was thereafter assigned from Ameriquest Mortgage Company to Plaintiff by an Assignment of Mortgage, dated November 2, 2009 and recorded on November 10, 2009 in Book 15757 at Page 496 of the York County Registry of Deeds. *See* Exhibit D3.
13. Said Mortgage was subsequently assigned from American Home Mortgage Servicing, Inc. as servicer for Ameriquest Mortgage Company to Plaintiff by an Assignment of Mortgage, dated November 13, 2009 and recorded on November 19, 2009 in Book 15764 at Page 33 of the York County Registry of Deeds. *See* Exhibit D4.
14. Plaintiff, directly or through its agent, is in possession of the original Note, Mortgage and any assignments.
15. Plaintiff is the party entitled to collect the debt evidenced by said Note and is the party entitled to enforce the Mortgage, and has the right to foreclose the Mortgage.
16. Defendant Bonnie L. Therrien is presently in default of the Note, having failed to make the monthly payment due September 1, 2017, and having failed to make all payments due thereafter. As a result thereof, Defendant has breached a condition of the Mortgage.
17. In compliance with the Note and Mortgage and/or 14 M.R.S.A. § 6111, on or about May 8, 2018, Plaintiff sent a Notice of Default to the mortgagor and any co-signor against whom the mortgagee is enforcing the obligation secured by the mortgage, by certified mail, return receipt requested and/or by regular mail, postage prepaid (herein after referred to as the “Demand Letter”). *See* Exhibit E.
18. Defendant, Bonnie L. Therrien, has failed to cure the default prior to the expiration of the Demand Letter. In accordance with the Note and the Mortgage, Plaintiff has declared the entire principal amount outstanding, accrued interest thereon, and all other sums due under the Note and Mortgage to be presently due and payable.

19. The total unpaid principal balance owed under the Note and Mortgage as of February 2, 2018, is \$132,695.52 plus interest, late charges, expenses and reasonable attorney's fees and costs.
20. Plaintiff anticipates that additional disbursements will be made for attorney's fees and other services rendered during the foreclosure and sale.
21. Upon information and belief, Defendant, Bonnie L. Therrien, is presently in possession of the subject property originally secured by the Mortgage.

COUNT I – FORECLOSURE

22. Plaintiff, Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R10, repeats and re-alleges paragraphs 1 through 21 as if fully set forth herein.
23. This is an action for foreclosure and title to real estate located at 128 Cross Road, Shapleigh, ME, 04076, County of York, and State of Maine. *See* Exhibit A.
24. Plaintiff, Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R10, is the holder of the Note pursuant to endorsement by the previous holder and physical possession of the Note. As such, Plaintiff has the right to foreclosure upon the subject property.
25. Note Owner is the current owner and investor of the Mortgage and Note.
26. Defendant, Bonnie L. Therrien, is presently in default on said Mortgage and Note, having failed to make the monthly payment due September 1, 2017. As a result, Bonnie L. Therrien has breached the condition of the Mortgage and Note.

27. The total unpaid principal balance owed under the Note and Mortgage as of February 2, 2018, is \$132,695.52 plus interest, late charges, expenses and reasonable attorney's fees and costs.
28. The record established through the York County Registry of Deeds indicates that there are no public utility easements recorded subsequent to the Mortgage and prior to the commencement of these proceedings affecting the mortgaged premises at issue herein.
29. By virtue of Defendant's breach of condition, Plaintiff, Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R10, hereby demands a foreclosure on said real estate.
30. Notice in conformity with 14 M.R.S.A. §6111 was sent to Defendant, Bonnie L. Therrien, on May 3, 2018 as evidenced by the Certificate of Mailing. *See* Exhibit F.
31. Defendant, Bonnie L. Therrien, is not in the Military as evidenced by the attached Exhibit G.

COUNT 11 – UNJUST ENRICHMENT

32. Plaintiff, Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R10 repeats and realleges paragraphs 1 through 31 as if fully set forth herein.
33. Ameriquest Mortgage Company, predecessor-in-interest to Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R10, loaned Defendant, Bonnie L. Therrien, and the late Michael L. Therrien, \$241,600.00. *See* Exhibit B.

34. Defendant, Bonnie L. Therrien, has failed to repay the loan obligation pursuant to the terms of the Note and Mortgage.

35. As a result, Defendant, Bonnie L. Therrien, has been unjustly enriched to the detriment of the Plaintiff, Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R10, as successor-in-interest to Ameriquest Mortgage Company by having received the benefits described above without repayment pursuant to the terms of the Note and Mortgage.

36. As such, Plaintiff, Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R10, is entitled to relief

PRAYERS FOR RELIEF

WHEREFORE, Plaintiff, Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R10, prays this Honorable Court:

Find that Defendant, Bonnie L. Therrien, entered into a contract for a sum certain in exchange for a security interest in the subject property.

- a. Determine that there has been a breach of condition of the Mortgage;
- b. Find that Plaintiff, Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R10, is entitled to enforce the terms and conditions of the Note and Mortgage;

- c. Determine the amounts due under the Note and secured by the Mortgage, including principal, interest, reasonable attorney's fees, court costs and other expenses;
- d. Find that the Defendant is liable for any deficiency balance remaining due to Plaintiff after the sale of the mortgaged real estate and application of the proceeds of sale (this prayer is void for any Defendant that did not execute the Note or Guaranty and for any Defendant who has been granted discharge in bankruptcy);
- e. Issue a Judgment of Foreclosure and Sale in conformity with Title 14, M.R.S. § 6322;
- f. Order exclusive possession of the real estate to Plaintiff upon the expiration of the statutory ninety (90) day period of redemption and direct the clerk to issue a Writ of Possession at the request of Plaintiff;
- g. Find that by virtue of the Note and Mortgage, the Defendant, Bonnie L. Therrien, has been unjustly enriched at the Plaintiff's expense; and
- h. Order such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted,

Deutsche Bank National Trust Company, as Trustee
for Ameriquest Mortgage Securities Inc., Asset-
Backed Pass-Through Certificates, Series 2005-R10

By its Attorneys,
BENDETT & MCHUGH, P.C.

Dated: October 31, 2018

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